



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/726,447

12/03/2003

Akm N. Islam

5681-68600

6738

58467

7590

08/01/2008

MHKKG/SUN

P.O. BOX 398

AUSTIN, TX 78767

EXAMINER

KISS, ERIC B

ART UNIT

PAPER NUMBER

2192

MAIL DATE

DELIVERY MODE

08/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/726,447</p>	<p>Applicant(s) ISLAM ET AL.</p>	
	<p>Examiner Eric B. Kiss</p>	<p>Art Unit 2192</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Eric B. Kiss/
Primary Examiner, Art Unit 2192

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive.

Regarding claim 1, Fanshier discloses the application to be deployed in the form of an EAR file according to the J2EE specifications (col. 3, lines 11-30 (describing application format, including application archives)). The EAR file is an application archive comprising the multiple files of the application, which is later exploded at the managed servers (a plurality of servers in a cluster of servers) in order to load the deployed application (col. 3, lines 11-30 (describing application format); col. 2, lines 38-46 (describing exploding the archive and loading the application)). The application EAR file is distributed from the administration server to the managed servers, either through distributing copies or by placing the application in a shared directory on the administration server (a central application repository) (col. 5, lines 1-16 (describing either downloading or accessing a shared directory at the administration server)). Thus, the multiple files for an application are brought together (assembled) and stored as (compiled) a deployable application archive in the administration server, and the successfully compiled application (EAR file) may be stored in a shared directory (stored in a central application repository) and accessed by the managed servers at the direction of the deployment utility or master deployer (deploying the application from the central application repository onto a plurality of servers in a cluster of servers).

Regarding claim 2, Fanshier discloses at least two situations where an older version and a newer version of an application may simultaneously execute on different servers. First, Fanshier discloses the managed server on startup activating all configured applications that are targeted to that server, which may include an older version due to a missed update (col. 6, lines 10-28), and second, Fanshier discloses a managed server may inadvertently update the application prior to a deployment request (col. 6, lines 34-39).

Regarding claim 3, as noted above, Fanshier clearly discloses assembling files into a single archive file, namely an EAR file (e.g., col. 3, lines 11-30 (describing application format)).

Regarding claim 4, the application files of Fanshier inherently come from source code and related resource files). Further regarding claim 4, the fact that the received archive can be exploded and loaded on the managed servers validates that the files were properly compiled into the archive on the administration server. Because the load-and-validate phase takes place before the application is moved to the production or deployment directories of the managed servers, it may be interpreted as being done prior to deployment (i.e., prior to the application reaching a final, deployed state on the managed servers).

Regarding claim 5, Fanshier discloses updating of deployed applications (e.g., col. 6, lines 10-39). This inherently requires deactivation of the previous version of the deployed application as it is replaced either through partial updates or full redeployment as appropriate.

Despite applicant's assertion that another form PTO-1449 was provided to the Office (Remarks 2), the EFS Acknowledgment Receipt dated December 18, 2007, shows this assertion to be incorrect. Again, the examiner will fully consider the cited reference at such time as applicant provides a new form PTO-1449.

Continuation of 13. Other: A supplemental declaration was filed on May 30, 2008. This supplemental declaration is acceptable, and the previous objection is withdrawn.